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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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Mother Doe, as guardian for her minor child John Doe	
	COMPLAINT
	DOCKET NO. 17-cv-3132
Plaintiff,	**JURY TRIAL DEMANDED**
-against-	**ECF CASE**
Blair Academy	
Defendants.	

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Plaintiff Mother Doe, as guardian for her minor child John Doe, a resident of Westchester, New York may be contacted through her counsel, McLaughlin & Stern, LLP or Siegel Teitelbaum & Evans, LLP, whose addresses are noted in this Complaint, so that her privacy is maintained. Defendant Blair Academy's address is 2 Park Street, Blairstown, NJ 07825.

Plaintiff Mother Doe, as guardian for her minor child John Doe, by her attorneys, Siegel Teitelbaum & Evans, LLP and McLaughlin & Stern, LLP, as and for her COMPLAINT, alleges the following:

PRELIMINARY STATEMENT

1. This case arises out of the fact that John Doe was expelled/forced to withdraw ("expelled") from Blair Academy in violation of its statutory and common law obligations. This civil rights action is for declaratory and injunctive relief and damages for discrimination based on sex and race, breach of contract, and for Blair Academy's failure to follow procedures that were fundamentally fair in expelling John Doe. The action is instituted pursuant 42 U.S.C. § 1981, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, race and sex discrimination in violation of the New Jersey Law Against Discrimination ("NJLAD"), N.J. Stat. Ann. § 10:5-4, and other state law claims.

PARTIES

2. Plaintiff Mother Doe, the mother of her minor child John Doe, an African American woman, is a citizen and resident of the State of New York, and resides in Westchester County, and brings this action on behalf of her minor son.

3. John Doe is a minor, age 17, 16 at time of incident, and an African American male. From September 2104 through April 2016, John Doe was enrolled in Blair Academy.

4. Blair Academy is a private, coeducational, boarding and day school for students in ninth through twelfth grades. Blair Academy is located at 2 Park Street, Blairstown, NJ 07825, in Warren County, New Jersey. Blair Academy receives federal financial assistance due to the fact that, at a minimum, it is a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code; pursuant to the New Jersey Economic Development Authority it had a tax exempt bond issue of $23,550,000; it has qualified as a national historic landmark; and the Federal Communications Commission (FCC) has granted Blair Academy an amateur radio license for the school's radio club. Blair Academy is a place of public accommodation pursuant

to the NJLAD, as, *inter alia,* it is similar to enumerated and other previously recognized public accommodations, and, upon information and belief, engages in broad public solicitation.

JURISDICTION AND VENUE

5. This action is brought pursuant to 42 U.S.C. § 1981, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq. and its implementing regulations, regulating the conduct of recipients of Federal financial assistance; Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, and its implementing regulations, regulating the conduct of recipients of Federal financial assistance. This Court has jurisdiction of the action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4) as this is a civil action arising under the laws of the United States. This Court also has jurisdiction over the action pursuant to 28 U.S.C. § 1332, as Mother Doe and Blair Academy are citizens of different states and the amount in controversy exceeds $75,000.00, exclusive of costs and interest. This Court has jurisdiction to declare the rights of the parties and to grant all further relief deemed necessary and proper pursuant to 28 U.S.C. §§ 2201 and 2202.

6. This Court has supplemental jurisdiction over Plaintiff's New Jersey state law claims pursuant to 28 U.S.C. § 1367(a).

7. Venue in the District of New Jersey is appropriate pursuant to 28 U.S.C. § 1391(b), in that a substantial part of the events giving rise to Plaintiff's claims occurred within the District of New Jersey.

STATEMENT OF FACTS

John Doe and Jane Doe

8. John Doe matriculated at Blair Academy in the fall of 2014 as a freshman.

9. In the school year of September 2015 to May 2016 John Doe was a sophomore.

10. Prior to John Doe's matriculation Mother Doe signed the relevant enrollment forms. Blair Academy entered into an agreement with Mother Doe on John Doe's behalf to provide John Doe with, among other things, supervision, housing and academic instruction, while Mother Doe agreed to pay John Doe's tuition. Mother Doe has not breached the contract as she has paid his tuition for his entire freshman and sophomore year.

11. Prior to John Doe's expulsion he had an outstanding record at Blair Academy. His GPA for his freshman year was a 5.1, and for the first semester of his sophomore year was a 5.0 out of a 6.0 (these were the semesters he completed at Blair Academy before the Incident). He was a standout player on the basketball team, and, in his freshman year he was the only freshman to make the varsity team.

12. His freshman year John Doe was elected by his class to the Freshman Class Council. Each class has 5-6 class council members who represent that class in their dealings with the administration.

13. His sophomore year John Doe was a representative of Blair Academy to the Sportsmanship Committee. This committee is comprised of 2 student representatives from each of the 6-7 schools in the sports league. The Sportsmanship Committee's goal is to ensure the sports leagues are fair, and discuss issues related to sportsmanship. John Doe did not apply for this position but, upon information and belief, was chosen by member(s) of the Blair Academy administration or athletic department for this position. Without expressing any interest in the committee to any faculty or administration, John Doe was asked by the wrestling coach to be a member of this committee. Committee members are usually juniors or seniors, but Blair Academy asked for a waiver of this rule so that John Doe could serve as a member.

14. The Mid-Atlantic Prep League ("MAPL"), a league of independent schools, selects students who excel in both academics and sports to receive the Academic All-MAPL awards. John Doe's sophomore year he received this award for boys' basketball.

15. In describing John Doe's record at Blair academy prior to the incident that forms the basis of this complaint (the "Incident"), one administrator wrote, "Over the course of his time at Blair, [John Doe] wrote [sic] an exceptionally strong record as a top student and athlete and has been very highly regarded by faculty and peers for his demonstrations of leadership, good citizenship, athletic and academic performance."

16. Prior to the Incident John Doe had no disciplinary history at Blair Academy.

17. In the school year of September 2015 to May 2016 Jane Doe was a freshman.

18. Jane Doe is female and is Caucasian.

19. As John Doe had no disciplinary problems prior to the Incident, Jane Doe's disciplinary history was either the equivalent of John Doe's or worse.

20. In the 2-3 weeks prior to the incident that forms the basis of this complaint John Doe had had an involvement with Jane Doe –they had kissed a couple of times, and she had stimulated his penis with her hands.

The Incident

21. In or about January of 2016 both John and Jane Doe had a free block in the middle of the day and went under a staircase in the athletic building. They engaged in light sexual activity including kissing and fondling each other in that location for approximately 15-20 minutes.

22. At some point during this time Jane Doe engaged in consensual oral sex with John Doe.

23. While engaged in this sexual activity, a 15 to 20 second video was created on John Doe's phone with the knowledge of both John and Jane Doe.

24. That day a copy of the video was given to Jane Doe, and both John and Jane Doe shared the video with friends. The video was thereafter deleted by John Doe and, upon information and belief, by Jane Doe.

25. Thereafter John and Jane Doe continued their relationship until John Doe determined to end their relationship.

26. Until the school's apparent investigation into the Incident there was no further reference between John and Jane Doe to the sexual encounter or the video.

27. In April, months after the Incident, Blair Academy suddenly began an inquiry into the matter.

Blair Academy's Investigation and Expulsion of John Doe

April 11, 2016

28. On or about April 11, 2016, Carm Mazza, Dean of Students, contacted John Doe and requested John Doe come to an in person meeting with him. During this meeting, Mr. Mazza informed John Doe that the school knew about "the video," and requested that John Doe tell him everything about the Incident. John Doe complied and told Mr. Mazza everything he could recall about the incident.

29. In the meeting Mr. Mazza asked John Doe if he wanted to speak to his basketball coach, Joseph Mantegna, and John Doe said that he did want to speak to Mr. Mantegna. John Doe spoke with Mr. Mantegna for approximately five to ten minutes. Mr. Mantegna listened to John Doe, did not ask questions, and John Doe believed he was there for moral support for him.

30. After speaking with Mr. Mantegana, John Doe continued his meeting with Mr. Mazza.

31. Directly after Mr. Mazza's meeting with John Doe, Mr. Mazza met with Jane Doe. During Mr. Mazza's meeting with Jane Doe, John Doe was in a room in the same suite of offices by himself waiting.

32. Directly after Mr. Mazza's meeting with Jane Doe, there was a brief meeting with Mr. Mazza, John Doe, Jane Doe and a female faculty member. During this meeting Mr. Mazza and/or the female faculty member checked Jane Doe's laptop to see if there was a copy of the video on the laptop – no such copy of the video was found. Neither John Doe nor, upon information and belief Jane Doe possessed a copy of the video at that time, as both had previously deleted it.

33. At no point in this meeting did Jane Doe indicate that she felt harmed or wronged by John Doe.

34. Mr. Mazza asked John Doe if he wanted to speak with his advisor, Leucretia Shaw and told him not to speak to anyone else about the Incident. John Doe said he did want to speak with Ms. Shaw. Later that day John Doe had a meeting with Ms. Shaw in her office. In this meeting, John Doe told Ms. Shaw about the Incident and his interactions with the administration. Ms. Shaw mostly listened rather than ask John Doe questions, and, John Doe believed this meeting was for his moral support, like his meeting with his basketball coach. John Doe's meeting with Ms. Shaw lasted for approximately an hour.

35. Later that day Jane Doe texted John Doe and said "can we talk." John and Jane Doe then met up that day. In this conversation Jane Doe expressed her disbelief that John Doe was being treated so harshly by the school and said that she was sorry he was being treated that

way. Jane Doe also wanted John Doe to know that she wasn't the one that reported the incident to the school administration.

36. At no point on April 11, 2016 did any faculty member or administrator from Blair Academy ever tell John Doe (1) what Jane Doe had said; (2) who had made the complaint and/or notified Blair Academy of the Incident; (3) who, other than Jane Doe, faculty or administrators had interviewed regarding the Incident; (4) what specific Blair Academy rules he had violated; or (5) what John Doe's specific actions were that violated the school rules.

37. John Doe's April 11, 2016 meetings with Mr. Mazza, his basketball coach, and his advisor were John Doe's only opportunity to tell the administration what had occurred. At the time John Doe had these meetings John Doe did not know what Jane Doe told the administration, who other than Jane Doe school administrators had spoken to and what those witnesses said, and, thus, did not have an opportunity to rebut or explain any allegations. Additionally, John Doe did not know what specific school rules he had violated, or what conduct that he had engaged in had violated the school rules.

April 12, 2016

38. On or about April 12, 2016, the day following John Doe's first meeting with Mr. Mazza, John Doe received a text message from Mr. Mazza telling John Doe to come to his office. John Doe complied and went to Mr. Mazza's office. There, John Doe met with Mr. Mazza and Ryan Pagotto, the Associate Head of School. In this meeting John Doe was informed that he would be suspended for three days, and given conduct probation for the rest of the year. John Doe was never informed who determined this punishment, or what the process was for making this determination. John Doe was told to go to his room, pack the belongings he would

need for his 3 day suspension, and wait for his mother in the health center, where she would pick him up later that day.

39. Later that day, April 12, 2016, Mother Doe and her husband, Stepfather Doe arrived to pick up John Doe. That evening there was a meeting with Mother Doe and Stepfather Doe, John Doe, and Mr. Pagotto, which lasted approximately 20 to 30 minutes. At this meeting Mr. Pagotto explained that John Doe would be suspended, indefinitely, rather than for three days, as John Doe had previously been informed. Mr. Pagotto also said that the final decision regarding John Doe's punishment had not yet been decided, and the administration wanted to continue its investigation. Mr. Pagotto led Mother Doe and John Doe to believe this increased punishment was due to Dean Pagotto's conversation with the Head of School, Christopher Fortunato. However, Mr. Pagotto did not give any other information regarding what caused the administration to have changed John Doe's punishment.

40. At the meeting Mr. Pagotto explained that the problem was not the oral sex, but "the video." However, at this meeting Mr. Pagotto did not specify any further details about what he meant by this statement. Additionally, at the meeting Mother Doe asked what punishment Jane Doe would receive, and Mr. Pagotto responded that Jane Doe would not be punished. Mother Doe asked why Jane Doe would receive no punishment but John Doe would be suspended for an amount of time to be determined. Mr. Pagotto responded in sum or substance that it was "OK for [Jane Doe] to show her friends the video, but not for [John Doe] to show his friends the video." Mr. Pagoto further said that "she's the victim here," and that John and Jane Doe's "intentions' were different." Mr. Pagotto said that Jane Doe was using her friend to console her when she showed them the video, whereas John Doe showed the video to his friends to brag and boast. Mother Doe responded by saying that Jane Doe's showing the video, which

contained John Doe's private parts, to her friend was just as damaging for him as it was for her.

John Doe's Expulsion

41. From April 12, 2016 through April 22 John Doe was home, serving his suspension.

42. On or about April 22, 2016, Mr. Pagotto called Mother Doe, and said Blair Academy had decided to expel John Doe.

43. On or about April 25, 2016 Mother Doe went to Blair Academy to collect John Doe's belongings, and she and Stepfather Doe had a short meeting with the Head of School, Mr. Fortunato. At this meeting Mr. Fortunato explained that the decision to expel John Doe was made by the executive committee, that it was a unanimous decision, and that there were no further appeals that could be taken. At no point did Mr. Fortunato ever tell Mother Doe or Stepfather Doe what further investigation into the facts of the incident the administration had undertaken.

44. At no time prior to John Doe's expulsion had any faculty member or administrator of Blair Academy ever told John or Mother Doe (1) what specific school rules John Doe had violated; (2) who had made the complaint and/or notified Blair Academy of the Incident; (3) what Jane Doe had alleged; (4) that Jane Doe had claimed to feel harmed by the incident or video; (5) what witnesses the school had interviewed or what those witnesses had said; (6) what steps Blair Academy had taken to investigate the Incident; or (7) what facts Blair Academy had relied upon to determine that expulsion was an appropriate punishment for John Doe. Nor did John Doe or Mother Doe have any opportunity to appeal the school's decision. Indeed the only times John Doe told any administrator or faculty member about the Incident were his meetings with Mr. Mazzo, his basketball coach and his advisor, all on April 11, 2016.

Thus, prior to his expulsion, John Doe was not given proper notice of the specific charges, an opportunity to respond to any allegations, or an opportunity to cross examine his “accuser” or any witnesses. The procedure Blair Academy followed was not fundamentally fair and the decision to expel John Doe was not based on sufficient evidence.

The Completion of John Doe’s Sophomore Year

45. After John Doe’s expulsion, he needed to finish his sophomore year in absentia.

46. An administrator at Blair Academy emailed Mother Doe and John Doe the material that needed to be covered, stated that Mother Doe would need to find proctors – at her expense- to monitor assignments and final exams, and suggested that Mother Doe also find and hire tutors for at least some of the subjects. Mother Doe then engaged in the time consuming and expensive process of finding tutors for all subjects, and proctors for the assignments and exams.

47. From April through the end of the school year in May, John Doe completed his school work in absentia. He found the situation to be terribly isolating and stressful.

48. He completed the semester with a still high GPA of 4.8 (out of 6.0), but lower than the other semesters he was at Blair academy (his GPA for his freshman year was 5.1; and his GPA for the first semester of his sophomore year was 5.0).

John Doe’s Future is Damaged by Blair Academy’s Actions

49. John Doe’s academic and basketball careers have been harmed by Blair Academy’s actions.

50. John Doe had to apply to other schools for the last two years of high school. Completing the applications took considerable time and energy. Blair Academy required that any statement from the Blair Academy to the schools to which John Doe was applying include the fact that John Doe was “required to withdraw” and “had violated the rules of the school.”

51. In applications to the other schools John Doe disclosed that he was required to withdraw from Blair Academy as a result of the videotaped sexual encounter.

52. John Doe applied to and was rejected from Westtown School, Pompfret, the Hill School, and Northfield Mount Herman (NMH), all of which are co-ed schools. Prior to his freshman year John Doe had been accepted at from Westtown School and Pompfret. Given John Doe's excellent academic record and extracurricular activities at Blair Academy, this rejection was almost certainly due to the fact that he was expelled.

53. John Doe was accepted at several all-boys schools, and chose to attend Iona Prep. Upon information and belief, the quality of the education and the basketball program are higher at Blair Academy than Iona Prep. Additionally, John Doe was significantly happier socially at Blair Academy than Iona Prep.

54. Competition to get into top colleges is extremely tough. The expulsion will strongly damage John Doe's chances of getting into a top college with a good basketball program. Additionally, the fact that John Doe's GPA dropped as a result of the expulsion, as well as the fact that he is applying from a less academically rigorous school with a less competitive basketball program will further damage his chance of getting in to such schools.

55. Prior to John Doe's expulsion, he had hoped to attend and play basketball at Stanford University in Palo Alto California. Now the chance of that occurring is strongly damaged.

56. Defendant's conduct caused John Doe psychological and emotional trauma, injury to John Doe's academic and athletic career and reputation, and caused Mother Doe significant economic and emotional damages. Their actions constituted outrageous and reckless conduct,

and demonstrated a callous indifference to and willful disregard of Plaintiff's federal, state, common law and statutory rights.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

VIOLATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

57. Plaintiff repeats and realleges each and every allegation set forth above.

58. Title IX of the Education Amendments of 1972 applies to private schools that receive federal funding of any kind or amount. Blair Academy receives federal financial assistance due to the fact that, at a minimum, it is a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code; pursuant to the New Jersey Economic Development Authority it had a tax exempt bond issue of $23,550,000; it has qualified as a national historic landmark; and the Federal Communications Commission (FCC) has granted Blair Academy an amateur radio license for the school's radio club. Pursuant to Title IX the Education Amendments of 1972, John Doe has a right not to be subject to discipline where sex is a motivating factor in the decision to discipline John Doe and in enforcement of the school's disciplinary procedures, and, in general, John Doe has a right to be treated fairly by Blair Academy regardless of his sex.

59. Blair Academy intentionally discriminated against Plaintiff due to John Doe's sex.

60. As described above, Blair Academy violated John Doe's rights to fair treatment under Title IX, both through selective enforcement of Blair Academy's disciplinary procedures, and these flawed proceedings led to an erroneous outcome.

61. Blair Academy selectively enforced its disciplinary procedures. In a situation where John and Jane Doe engaged in consensual oral sex of which a video was taken, and both students shared the video with friends, John Doe was required to withdraw, while Jane Doe received no punishment. Blair Academy's decision to take disciplinary action against John Doe, but not Jane Doe and to subsequently expel John Doe but not punish Jane Doe was due to John Doe's sex. Blair Academy treated John Doe less favorably due to his sex.

62. Title IX requires that federally funded schools adopt and follow grievance procedures that provide for "prompt and equitable" resolution of Title IX complaints. *See* 34 CFR §106.8(b). In its April 2011 "Dear Colleague" letter The U.S. Department of Education advised Blair Academy and other educational institutions that their "prompt and equitable" procedures must provide, at a minimum, certain protections, including "[a]dequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence." The Department of Education also advised that throughout an "investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence." The complainant and accused must be given "similar and timely access to any information" that will be part of the hearing/decision-making process. Here the disciplinary process was not "equitable" as required by Title IX, but instead was one-sided and did not provide the required procedural protections. John Doe was not given notice of the specific charges or the allegations made by Jane Doe or others, he did not have the opportunity to confront his accuser, and was not given a list of witnesses against him.

63. Additionally, Blair Academy erroneously concluded that Jane Doe's version of events, or those of other witnesses was true and John Doe's was not – despite the fact that Blair Academy only heard John Doe's version of events once, when Mr. Mazza initially confronted

John Doe on April 11, 2016. Blair Academy's belief that Jane Doe's or witnesses, version of events was correct was due to John Doe's sex. The erroneous outcome was due to John Doe's sex.

64. Blair Academy has failed to remediate its discriminatory conduct directed at John Doe.

65. As a result of the foregoing Plaintiff and John Doe have suffered damages.

SECOND CLAIM FOR RELIEF

VIOLATION OF 42 USC §1981

66. Plaintiff repeats and realleges each and every allegation set forth above.

67. Plaintiff has rights secured by 42 U.S.C. § 1981 to make and enforce contracts on the same basis as all other citizens regardless of race.

68. John Doe's relationship with Blair Academy is contractual in nature. Pursuant to the agreement entered into by Mother Doe on his behalf, Blair Academy agreed to provide John Doe with, among other things, supervision, housing and academic instruction, while Mother Doe agreed to pay John Doe's tuition.

69. Plaintiff and John Doe, who are African American, are members of a racial minority.

70. Blair Academy intended to discriminate against Plaintiff and John Doe on the basis of John Doe's race.

71. In expelling John Doe, who is African American, but not Jane Doe, who is Caucasian and had engaged in similar conduct, and in failing to follow fair and proper procedures in coming to the conclusion that John Doe should be expelled, Blair Academy

intentionally discriminated against Plaintiff on the basis of her and John Doe's race in her ability to make and enforce her contract with Blair Academy.

72. As a result of the foregoing Plaintiff and John Doe have suffered damages.

THIRD CLAIM FOR RELIEF

VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

73. Plaintiff repeats and realleges each and every allegation set forth above.

74. Title VI applies to private schools that receive federal funding of any kind or amount. Blair Academy receives federal financial assistance due to the fact that, at a minimum, it is a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code; pursuant to the New Jersey Economic Development Authority it had a tax exempt bond issue of $23,550,000; it has qualified as a national historic landmark; and the Federal Communications Commission (FCC) has granted Blair Academy an amateur radio license for the school's radio club.

75. Mother Doe and John Doe, who are African American, are members of a racial minority.

76. In expelling John Doe, who is African American, but not Jane Doe, who is Caucasian and had engaged in similar conduct, and in failing to follow fair and proper procedures in coming to the conclusion that John Doe should be expelled, Blair Academy intentionally discriminated against Plaintiff due to John Doe's race.

77. As a result of the foregoing Plaintiff and John Doe have suffered damages.

FOURTH CLAIM FOR RELIEF

NEW JERSEY LAW AGAINST DISCRIMINATION: N.J.S.A. 10:5-1 ET SEQ.; N.J.S.A. 18A:35-1; 18A:36-20; 18A:38-5.1 –RACE AND SEX DISCRIMINATION

78. Plaintiff repeats and realleges each and every allegation set forth above.

79. Defendant Blair Academy is a place of public accommodation pursuant to the NJLAD, as, *inter alia*, it is (1) similar to “high school[s]… under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey,” which are enumerated places of public accommodation, and (2) is similar to a non-sectarian private school with selective admissions and a private university with selective admissions, which were a previously recognized public accommodations; and (3), upon information and belief, engages in broad public solicitation.

80. Defendant Blair Academy has intentionally discriminated against John Doe in the provision of accommodations and privileges, including his access to the facilities, services, and benefits of being a student at Blair academy, because of his African American race and male sex.

81. As a result of the Defendant’s violation of the NJLAD Plaintiff and John Doe have suffered damages.

FIFTH CLAIM FOR RELIEF

BREACH OF CONTRACT

82. Plaintiff repeats and realleges each and every allegation set forth above.

83. John Doe's relationship with Blair Academy is contractual in nature. Pursuant to the agreement entered into by Mother Doe on his behalf , Blair Academy agreed to provide John Doe with, among other things, supervision, housing and academic instruction, while Mother Doe agreed to pay John Doe's tuition.

84. Among the promises Blair Academy made was to abide by the provisions in the Student Handbook. In the Student Handbook Blair Academy agreed to not discriminate on the basis of gender or race. The front page of the handbook (before the Table of Contents), states:

> Blair Academy does not discriminate on the basis of gender, age, creed, race, color, sexual orientation, or national and ethnic origin in the administration of its education policies, admissions, scholarships, loans or other school-administered programs.

85. Blair Academy has breached its contractual commitments by discriminating against John Doe based on his sex and race in determining that John Doe's conduct warranted expulsion.

86. Blair Academy also breached its contractual commitments by failing to follow a procedure that is fundamentally fair in making and executing its decision to expel John Doe. Neither John Doe nor Mother Doe were told prior to John Doe's expulsion: (1) what specific school rules John Doe had violated; (2) who made the complaint and/or notified Blair Academy of the Incident; (3) what Jane Doe had alleged; (4) that Jane Doe had claimed to feel harmed by the incident or video; (5) what witnesses the school had interviewed or what those witnesses had said; (6) what steps Blair Academy had taken to investigate the Incident; or (7) what facts Blair Academy had relied upon to determine that it needed to expel John Doe. Further Blair academy breached its contractual commitments by failing to permit John Doe or Mother Doe to have any opportunity to appeal the school's decision. By, prior to his expulsion not giving John Doe, inter alia, proper notice of the specific charges, knowledge of the investigatory process, an opportunity to respond to any allegations, an opportunity to cross examine his "accuser" or any witnesses, or appeal the decision, Blair Academy breached the contractual or quasi contractual commitments that it would follow a process that is fundamentally fair in determining whether to expel him.

87. As a result of Blair Academy's breach of contract Plaintiff and John Doe have suffered damages.

SIXTH CLAIM FOR RELIEF

FAILURE TO FOLLOW PROCEDURES THAT ARE FUNDAMENTALLY FAIR

88. Plaintiff repeats and realleges each and every allegation set forth above.

89. Blair Academy failed to follow a procedure that is fundamentally fair in making and executing its decision to expel John Doe. Neither John Doe nor Mother Doe were told prior to John Doe's expulsion: (1) what specific school rules John Doe had violated; (2) what Jane Doe had alleged; (3) who made the complaint and/or notified Blair Academy of the Incident; (4) that Jane Doe had claimed to feel harmed by the incident or video; (5) what witnesses the school had interviewed or what those witnesses had said; (6) what steps Blair Academy had taken to investigate the Incident; or (7) what facts Blair Academy had relied upon to determine that it needed to expel John Doe. Further Blair academy failed to permit John Doe or Mother Doe to have any opportunity to appeal the school's decision. By, prior to his expulsion not giving John Doe, inter alia, proper notice of the specific charges, knowledge of the investigatory process, an opportunity to respond to any allegations, an opportunity to cross examine his "accuser" or any witnesses, or appeal the decision, Blair Academy failed to follow a process that is fundamentally fair in determining whether to expel him.

90. As a result of the foregoing Plaintiff and John Doe have suffered damages.

JURY DEMAND

91. Plaintiff demands trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests following relief:

A. A declaratory judgment that Blair Academy's decision to expel John Doe violated his common law and statutory rights;

B. An injunction requiring that John Doe's disciplinary record be expunged; and that the record of his expulsion from Blair Academy be removed from his educational history; that Blair Academy be required to readmit John Doe, and that Blair Academy be enjoined from interfering with John Doe's ability to be enrolled at Blair academy and fully participate in academic, extracurricular and social life at Blair Academy;

C. That the jury find and the Court adjudge and decree that Plaintiff shall recover compensatory and punitive damages in an amount no less than $1,000,000, together with interests and costs.

D. That Plaintiff recovers the cost of this suit, including reasonable attorneys' fees.

E. That Plaintiff has such other and further relief as the Court shall deem just and proper.

Dated: May 4, 2017
New York, New York

Respectfully submitted,

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CERTIFICATION PURSUANT TO LOCAL RULE 11.2

The matter in controversy in *Mother Doe, as guardian for her minor child John Doe vs. Blair Academy*. is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

I, Alan Sash, certify under penalty of perjury that the foregoing is true and correct.

Executed on May 4, 2017.

/s/Alan Sash__________
Alan Sash